



Board Agenda Item 40

DATE: May 23, 2023

TO: Board of Supervisors

SUBMITTED BY: Steven E. White, Director
Department of Public Works and Planning

SUBJECT: Resolutions Initiating Annual Assessment Proceedings and Intent to Levy an Annual Assessment for County Service Area No. 34, Zone D - Renaissance at Bella Vista

RECOMMENDED ACTION(S):

1. **Approve and adopt Resolution initiating annual assessment proceedings under Chapter 3 of the Landscaping and Lighting Act of 1972 for street lighting services, open space maintenance, and public right-of-way landscape maintenance in County Service Area No. 34, Zone D, Renaissance at Bella Vista, and appointing an Assessment Engineer to prepare and file an Engineer's Report; and**
2. **Receive and approve the "Engineer's Report Renaissance at Bella Vista Lighting, Open Space, and Landscape Maintenance District, Fresno County Service Area No. 34, Zone D, Annual Benefit Assessment for Street Lighting, Open Space Maintenance, and Public Right-of-Way Landscape Maintenance," prepared by Steven E. White, P.E.; and**
3. **Approve and adopt Resolution of Intention to levy an annual assessment under Chapter 3 of the Landscaping and Lighting Act of 1972 in County Service Area No. 34, Zone D, and set a public hearing on the proposed assessment for June 20, 2023, at 9:30 a.m., or as soon after as practicable, to consider an assessment for street lighting services, open space maintenance and public right-of-way landscape maintenance, benefiting properties within County Service Area 34, Zone D, Renaissance at Bella Vista, which includes 106 residential parcels.**

Approval of the first recommended action adopts a resolution initiating annual assessment proceedings, appointing Steven E. White, P.E., Director, Department of Public Works and Planning, County of Fresno, as the Assessment Engineer, and ordering the filing of an Engineer's Report. Approval of the second recommended action receives and approves the Engineer's Report. Approval of the third recommended action adopts a resolution of intention to levy an annual assessment and sets a public hearing on June 20, 2023, at 9:30 a.m., to hear protests to the proposed assessment rates. The proposed assessment is necessary to fund street lighting services, open space maintenance and public right-of-way landscape maintenance, and administrative costs associated with the management of County Service Area 34, Zone D (CSA 34D), also known as Renaissance at Bella Vista. This item pertains to a location in District 5.

ALTERNATIVE ACTION(S):

There is no alternative action. If the recommended actions are not approved, CSA 34D would be substantially unfunded for FY 2023-24 and unable to pay the costs for operations, maintenance and

administrations.

FISCAL IMPACT:

There is no Net County Cost associated with the recommended actions. Operations, maintenance, and administration costs are paid by the benefitted properties within CSA 34D from service fees, property assessments and interest income.

DISCUSSION:

CSA 34D was formed on December 5, 2017. The Renaissance at Bella Vista Lighting, Open Space, and Landscape Maintenance District (Assessment District) was created to fund street lighting, open space maintenance, and public right-of-way landscape maintenance in CSA 34D, Renaissance at Bella Vista, as shown on Exhibit A. CSA 34D consists of 106 parcels, which were created by Tract Map 4968. CSA 34D also covers approximately 59.42 acres and is located in the Millerton Specific Plan area on the south side of Millerton Road, west of the intersection of Millerton Road and Winchell Cove Road. Services provided to the 106 parcels in CSA 34D levied under the Landscape and Lighting Act of 1972 include administration of the following: street lighting services, open space maintenance and public right-of-way landscape maintenance.

On December 5, 2017, after a Proposition 218 proceeding in which CSA 34D property owners received an opportunity to protest and there was no majority protest, the Board approved an assessment (that is, per parcel) for seven fiscal years (detailed on Attachment A). The maximum annual assessment per parcel approved by the Assessment District property owners for FY 2023-24 is \$27,229.28 or \$256.88 for each of the 106 developed single-family residence parcels.

After the Proposition 218 proceeding in 2017 and finding no majority protest, the Board approved a formula providing that the assessment may be adjusted for any or all six budget years after FY 2017-18 to provide for building reserves and addressing inflation to an amount not exceeding the applicable annual amount as shown on Attachment A. After the end of the seventh year (FY 2023-24), the yearly assessment per parcel adopted by the Board will remain at the same amount unless there is a subsequent Proposition 218 ballot process for any increased assessments. The 106 parcels receiving street lighting services, open space maintenance and public right-of-way landscape maintenance will pay 100% of the costs associated with these services.

The Process

The street lighting services, open space maintenance and public right-of-way landscape maintenance budgets are funded by annual assessments, service fees, and interest on cash reserves. The Board approved the annual assessments, including inflation adjustments, on December 5, 2017, in a Proposition 218 process.

The process of levying an annual assessment on real property within CSA 34D must conform to the requirements of the Chapter 3 of the Landscaping and Lighting Act of 1972 (Streets and Highways Code, Division 15, Part 2).

This is not a Proposition 218 process. A Proposition 218 process is not required this fiscal year. There was no majority protest to the assessment for any or all six budget years after FY 2017-18 in the 2017 Proposition 218 proceeding. The proposed assessment for FY 2023-24 does not exceed the maximum assessment approved by your Board in the 2017 Proposition 218 proceeding.

The Landscaping and Lighting Act of 1972, which is the enabling legislation for this assessment, requires an annual proceeding in which your Board levies the adjusted assessment. CSA 34D property owners and other interested persons may voice objections during the hearing or submit protest letters for your Board's consideration, but pre-printed ballots are not part of this process unlike in a Proposition 218 proceeding.

Your Board may approve or disapprove the annual assessment based on your independent discretion.

Pursuant to Streets and Highways Code sections 22552 and 22553, in the Landscaping and Lighting Act of 1972, the Clerk of the Board must give notice by causing the resolution of intention to be published one-time, at least 10 days before the public hearing scheduled for June 20, 2023, in accordance with Government Code section 6061.

Purpose of the Assessment

As described in the Engineer's Report, the annual assessments are for:

Street Lighting Services

PG&E owned and operated street lighting, including the Lighting System Operations and Maintenance Services such as the payment of PG&E usage charges, the payment of all administrative costs associated therewith, and the contribution to and maintenance of operating reserves, to provide year-round street safety lighting along all of the CSA 34D streets and to maintain the visual presentation of those streets in a ready-to-serve status for the benefit of all CSA 34D parcels.

Open Space Maintenance

All work and expenses associated with the monitoring of the restored riparian habitat and maintenance of the recreational trails and open space along the White Fox Creek Parkway corridor, which includes Outlots A and B of Tract 4968, as required by the open space impact mitigation requirements set forth in the conditions of development approval for Tract 4968.

Public Right-of-Way Landscape Maintenance

All work and expenses associated with the maintenance of the 0.76 acres of public-right-of-way and common area landscaping, as required by the Millerton Specific Plan and the Conditions of Approval for the development of CSA 34D, to enhance the visual presentation of the community for the benefit of all of the CSA 34D parcels, including twice-monthly service that includes weed and trash removal, plant care and irrigation system maintenance, and weed and trash removal on two outlots designated for the protection of cultural resources, and the maintenance of and contribution to an operating reserve.

Administration

County administration costs (including labor, legal, and annual audits).

The assessments approved in the 2017 Proposition 218 Proceeding allow for operating reserves to build over a seven fiscal year period for the landscape maintenance, to fund the replacement of equipment and infrastructure as it ages, which includes sprinklers and electrical controls for the sprinklers and any other maintenance needs that may arise.

Engineer's Report

If your Board approves the recommended actions and initiates the process required for this item (further discussed below), the Engineer's Report will be prepared and filed with the Clerk of the Board and made available for public inspection in its entirety no later than May 23, 2023.

The Engineer's Report will be prepared pursuant to the provisions of the California Constitution, Article XIII D, Section 4; the County Service Area Law, particularly Government Code section 25215.3; and the Landscaping and Lighting Act of 1972, particularly Streets and Highways Code sections 22585 through 22631. The Engineer's Report will include the projected cost to fund the continued street lighting services, open space maintenance and public right-of-way landscape maintenance, and there is a component in the rate for building reserves for the replacement of the infrastructure as needed.

Proposed Initiating Resolution

Approval of the first recommended action initiates the process necessary to fund the continued provision of street lighting services, open space maintenance and public right-of-way landscape maintenance in CSA 34D, including the accumulation of reserves. In general, by approving the proposed resolution, your Board makes the following key findings, determinations, and authorizations:

- a) Initiate proceedings to levy the annual assessment in CSA 34D and appoint Steven E. White, P.E., Director, Department of Public Works and Planning, County of Fresno, as the Assessment Engineer in connection with CSA 34D proceedings that are the subject of the recommended resolution.
- b) Authorize and direct Steven E. White, P.E., Director, Department of Public Works and Planning, County of Fresno, to prepare an Engineer's Report (as discussed in the above section), to be filed with the Board under Article XIID Section 4 of the California Constitution and the Streets and Highways Code Landscape and Lighting Act of 1972 found in Division 15, Part 2, Chapter 3.
- c) Provide that the proposed resolution shall take effect immediately upon its adoption.

Proposed Resolution of Intention

Approval of the third recommended action initiates the process necessary to fund the continued provision of street lighting services, open space maintenance and public right-of-way landscape maintenance in CSA 34D, including the accumulation of reserves. In general, by approving the proposed resolution, your Board makes the following key findings, determinations, and authorizations:

- a) Receive and approve the Engineer's Report, to be filed with your Board under Article XIII D, Section 4, of the California Constitution and the Landscape and Lighting Act of 1972.
- b) Declare the intention to levy and collect assessments in CSA 34D for street lighting services, open space maintenance and public right-of-way landscape maintenance, and declares that the assessment is not "increased" as that word is defined by Streets and Highways Code section 22630.5, Government Code section 54954.6, subdivision (a)(1) and Government Code section 53750, subdivision (h)(1) (because it conforms to the assessment amount previously approved by the Assessment District property owners in the 2017 Proposition 218 proceeding).
- c) Set a public hearing of your Board (Public Hearing) for June 20, 2023, at 9:30 A.M., or as soon after as practicable, in the Board Room of the Fresno County Board of Supervisors, Room 301, Hall of Records, 2281 Tulare Street, Fresno, California, 93721, to hear all objections and protests to levy the annual assessment. The Public Hearing shall be held pursuant to sections 22629 through 22631 of the Streets and Highways Code and may be continued from time to time by your Board without further notice. However, it may not be continued to a date after July 11, 2023, without prior consent of the County Auditor-Controller/Treasurer-Tax Collector, so there is time to put the assessment onto the tax roll for the 2023-24 tax year.
- d) Authorize and direct the Clerk of the Board to prepare and cause the proposed resolution of intention to be published, one-time no later than 10 days before the public hearing on June 20, 2023, pursuant to sections 22552 and 22553 of the Streets and Highways Code.
- e) Provide that property owners wishing to preserve the opportunity to file a lawsuit challenging the assessment, if levied, must file a written protest and state therein the specific grounds of protest. Any grounds of protest not stated in a written protest filed prior to the close of the public hearing of protests are deemed waived in any subsequent lawsuit and may not be raised in such lawsuit.
- f) Provide that the validity of the assessment imposed by the Board shall not be contested in any action or proceeding unless the action or proceeding is commenced within 30 days after the assessment is

announced and adopted.

- g) Provide that the proposed resolution shall take effect immediately upon its adoption.

REFERENCE MATERIAL:

BAI # 59, May 17, 2022

BAI #47, July 13, 2021

BAI # 4, July 7, 2020

BAI # 9, December 5, 2017

ATTACHMENTS INCLUDED AND/OR ON FILE:

Exhibit A

Attachment A - Proposition 218 Approved Assessments

On file with Clerk - Resolution to Initiate

On file with Clerk - Engineers Report

On file with Clerk - Resolution of Intention

CAO ANALYST:

Salvador Espino